

DOCKET NO: NNHCV176072389S

SUPERIOR COURT

MIRLIS, ELIYAHU
V.
YESHIVA OF NEW HAVEN, INC, FKA THE
GAN, INC, FKA T

JUDICIAL DISTRICT OF NEW HAVEN
AT NEW HAVEN

2/18/2022

ORDER

ORDER REGARDING:

02/03/2022 162.00 MOTION TO OPEN JUDGMENT AND EXTEND THE LAW DAY

The foregoing, having been considered by the Court, is hereby:

ORDER: DENIED

Earlier today the court heard argument on defendant Yeshiva's motion to open judgment and extend the law day in order to secure a bond. This is the second time Yeshiva has made such a motion in as many months.

In this court's order dated January 24, 2022 (Entry No.: 159.00) the court enumerated reasons why that motion to open was denied. The first reason on page two states:

"1. YESHIVA currently does not have enough funds to produce the cash bond."

This fact has not changed. This eliminates any legal arguments that were made by YESHIVA. What remains are equitable arguments. The court will consider them now.

This case has been pending since 2017. The plaintiff filed a motion for summary judgment in November of 2017 which was granted in January of 2018. Yeshiva did not object to the motion. On January 18, 2018 (4 years ago) Yeshiva filed its first motion to substitute the judgment for the bond. The court will note that this is prior to any TRO prohibiting sales in federal court. In June of 2019 plaintiff filed a motion for strict foreclosure. In March of 2020 the court entered judgment of strict foreclosure against Yeshiva. An appeal of the valuation of the property followed further delaying the proceedings. On October 25, 2021, this court set a law date, of January 31, 2022. On January 18, 2022, Yeshiva filed a motion to open and extend the law day so they could substitute a bond. The court entered the above noted order denying the request to substitute the bond, but extended the law day to February 22, 2022. Now the court is presented with the same motion, once again.

The plaintiff has waited long enough. The equities of this case, taking into account all relevant facts and circumstances, reviewing the pleadings, the arguments of the parties, the written briefs and the appellate record, the court finds that Yeshiva has not met their burden of proof and shown, by a preponderance of evidence, that equity requires an opening of the judgment to obtain a cash bond.

As such the motion is denied.

Nevertheless, pursuant to practice book §61-11(g) the court will set a new law date for March 28, 2022.

Judicial Notice (JDNO) was sent regarding this order.

Judge: JOHN ANTHONY CIRELLO

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